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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,302		04/05/2001	Ellis L. Kline	13395-0101 4139 (44448-256971)	
23594	7590	12/19/2002			
JOHN S. P	RATT		EXAMINER		
KILPATRICK STOCKTON LLP 1100 PEACHTREE SUITE 2800 ATLANTA, GA 30309				MELLER, MICHAEL V	
				ART UNIT	PAPER NUMBER
•	,			1654	
				DATE MAILED: 12/19/2002	14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner Michael V. Meller 1654								
Examiner Size Size		Application No.	Applicant(s)					
Michael V. Meller - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - SHOW MICHAEL FOR THIS COMMUNICATION. - If the period for reply specified above is less than they (30) days, a reply when the standard or event, however, may a reply be timely filed and the social communication. - If the period for reply specified above is less than they (30) days, a reply when the standard price of the period for reply specified above is the nature standard price of the period for reply specified above is the nature standard price of the period of the period for reply specified above is the nature and the period of the specified and the standard price of the communication of the period of the specified and the specifie	Office Action Cummans	09/827,302						
- The MALLING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILLING DATE OF THIS COMMUNICATION. Eatention of ine may be available under the provisions of 3 CPR 1.13(to). In no event, however, may a reply be timely filled the period for reply specified above is less than thiny (20) days, a upply within the statutory many at the period for reply specified above is less than thiny (20) days, a upply within the statutory period with grown and within the period for reply specified above is less than thiny (20) days, a upply within the set or extended period for reply with, by shatutory seriod via legal and the statutory in the period for reply specified above is less than thiny (20) days, a upply within the set or estinately seriod is period to second and the period of the communication to become ABANDONED (30 U.S.C § 133). Part of the period for reply specified above is less than thiny (20) days, a upply within the set or estinately seriod reply specified or reply specified to reply within the set or estinately seriod reply specified or reply specified or reply within the set or estinately seriod reply specified or reply specified or reply within the set or estinately seriod reply seriod and the set of reply within the set or estinately seriod reply seriod and the set of reply within the set or estinately seriod reply seriod reply seriod reply seriod and the set of reply seriod re	Office Action Summary	Examiner	Art Unit					
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THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CPR 1.15(a). In ne event, however, may a reply be timely filled after SIX (8) MONTISS from the mailing date of this communication. - It NO pend for reply a specified under the provision of the communication. - It NO pend for reply a specified above, the maximum stabutory pend will specify SIX (8) MONTIPS from the mailing date of the communication. - Fallow to reply within the set or extended panel for reply will, by statute, cause the application to become ARANDONED (36 U.S. C. § 133). - Any realy received by the Office the thin how nominist after the mailing date of the communication, even if timely filled, may reduce any - Status 1)[2] Responsive to communication(s) filled on 25 November 2002. 2a) This action is FINAL. 3)[3] Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)[3] Claim(s) 1.2 and 4-9 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 6)[3] Claim(s) 1.2 and 4-9 is/are rejected. 7)[3] Claim(s) is/are allowed. 6)[4] Claim(s) is/are are ejected. 7)[5] Claim(s) is/are rejected. 7)[6] Claim(s) is/are rejected to. 8)[7] The groposed drawing of the application to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11)[7] The proposed drawing correction filled on is/are: a)[7] accepted or b)[7] objected to by the Examiner. 11/2 The cath or declaration is objected to by the Examiner. 11/2 The reproposed drawing correction filled on is/are: a)[7] accepted or b)[7] disapproved by the Examiner. 11/3 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 12] The oath or declaration is objected to by the Examiner. 12] Cortified copies of the priority documents have been received in Application No.		pears on the cover sheet with the c	correspondence address					
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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/25/2002 has been entered.

Election/Restrictions

The election of species of record is maintained.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sedlacek et al., Int. J. Immunopharmacol. , 9, (7), 1987, abstract,

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Sedlacek et al., Cancer Immunol. Immunother 23 (3), 1986 abstract,

Maiskii et al., Byull eksp biol med 84 (12) 1977 (recd 1978) abstract,

Knop et al., Immunology, 34 (2), 1978, abstract,

Gautam et al., Indian J. Med Res 64 (3), 1976 abstract,

Sedlacek et al., Cancer Immunology Immunotherapy (cancer immunol. Immunother.) 1978 5/3 abstract, or Mobley et al., Res. Commun. Chem. Path. Pharmacol. 1974, 9/1 abstract taken with Green et al., Kline et al. '133 or Kline et al. '863.

The references each teach that an animal (rat or mouse) with a tumor (which according to applicant constitutes cancer, see applicant's comments in paper number 13 page 3) was injected with neuraminidase.

The references do not teach that the neuaminidase is dissolved in a phenolsaline solution or that the enzyme is administered sublingually or nasally.

Green teaches that phenol-saline is a common physiologically-acceptable carrier for compositions, such as finely divided micro-particles of tyrosine, see col. 2, lines 56-65.

The Kline patents teach that neuraminidase is routinely administered by sublingual and intranasal routes, see col. 6.

To administer the enzyme in a phenol-saline solution would have been well within the purview of the skilled artisan since it is well established by Green that phenol saline is a common physiologically-acceptable carrier for compositions, such as finely divided micro-particles of tyrosine.



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It also would have been obvious to administer the enzyme sublingually or nasally since the Kline references each establish that it is so well known in the art to administer such an enzyme sublingually or nasally in methods such as treating herpes.

Accordingly, this type of modification would have been well within the purview of the skilled artisan and no more than an effort to optimize results.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 703-308-4230. The examiner can normally be reached on Monday thru Friday: 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 703-306-3220. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and 703-308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

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Michael V. Meller Primary Examiner Art Unit 1654

MVM December 13, 2002